

2025:PHHC:152299



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

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CRM-M-52460-2025 (O & M)
Date of decision: 04.11.2025

GURINDER SINGH

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Maan Akashdeep Singh, Advocate,
for the petitioner.

AMAN CHAUDHARY, J. (ORAL)

1. The present petition has been filed under Section 528 of BNSS, 2023 for quashing of FIR No.17 dated 02.03.2024, registered at Police Station Sadar Moga, District Moga, under Sections 384, 386, 506 and 120-B IPC and the order dated 01.05.2025, Annexure P-21, whereby the petitioner has been declared a proclaimed person.

2. Learned counsel contends that in the above-noted FIR, there are 5 accused, however, challan was presented against 3 on 01.05.2024, who stand acquitted, vide judgment dated 08.07.2025, Annexure P-23. The petitioner though named in the FIR, however, had not been issued any notice to join investigation or arrested and, thus, had gone abroad in August, 2024. However his father, vide letter dated 22.11.2024, had sought for inquiry in the matter through DSP and he was declared innocent, vide report dated 28.01.2025 which had been approved by the

SP(Investigation), Moga, as is apparent from the letter dated 30.04.2025, Annexure P-10, however, he has been declared a proclaimed person vide impugned order dated 01.05.2025, Annexure P-21. Reference is made to the passport (Annexure P-22) and visa appended therewith to substantiate the aforesaid. Supplementary challan was presented against his brother on 23.07.2025, which is taken on record as Mark-A, wherein he has been kept in column No.2, in view of which he does not press the prayer qua quashing of FIR. The petitioner was working on daily wage basis in a dairy in India while as a helper in a farm in Italy. The impugned order has been passed without following the procedure under Sections 41, 105 and 82 Cr.P.C. A further reference is made to a Notification issued by the Government of India Ministry of Home Affairs, IS Division-II:Legal Cell New Delhi, dated the 11th Feb, 2009, laying down comprehensive guidelines in this regard of reciprocal arrangements to be made by Central Government with the Foreign Governments with regard to the service of summons/warrants/judicial processes. The Ministry of Home Affairs has entered into Mutual Legal Assistance Treaty/Agreements with 22 countries including Canada which provide for serving of documents. Thus the proclamation proceedings being in violation thereof are liable to be set aside.

3. Notice of motion.

4. At the asking of the Court, Ms. Gagandeep Kaur, DAG, Punjab accepts notice on behalf of respondent No.1-State and submits that the trial Court has rightly passed the order impugned in the present petition.

5. Mr. Pardeep Singh, Advocate, puts in appearance for respondent No.2 and submits that he has no objection, in case the impugned order is set aside.

6. Heard.

7. In the case of **Jasbir Kaur vs. State of Punjab and another**, CRM-M-25115-2022, decided on 2.6.2022, since the petitioner therein was a Non Indian Resident residing in Canada and proclamation proceedings had been initiated while she was not in India, as such, the order of proclamation was set aside.

8. Similarly, in **Jaswant Singh vs. State of Punjab and another**, CRM-M-32011-2018, petition was allowed on 6.2.2020, noticing the submission made by the counsel for the petitioner relying on the photocopy of the passport (Annexure A-1) that he was in Italy at the time of registration of FIR 29.10.2009, as well as, on the day, when he was declared proclaimed offender vide order dated 28.4.2014 and even on the date of passing of the above order.

9. The very purpose of issuance of summons, warrants etc. is to compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings.

10. Reverting to the facts of the present case inasmuch as it was because the petitioner had moved to Italy, prior to the passing of the impugned order and the procedure as envisaged by the Code not followed in letter and spirit, he could not be served and as such, his explanation for absence appears to be justified.

11. Accordingly, the present petition is hereby partly allowed.

The impugned order dated 01.05.2025, Annexure P-21, is set aside.

12. Disposed of accordingly.

04.11.2025

parveen kumar

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No